

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DENZEL JOHNSON, SR.,)	
Plaintiff,)	
)	
v.)	C.A. 21-cv-799
)	
DENZEL JOHNSON, SR.;)	
COMMONWEALTH OF PENNSYLVANIA,)	
a political subdivision/subcorporation of the)	
UNITED STATES, INC.;)	
PHILADELPHIA COUNTY;)	
and KEVIN KAUFFMAN, Slave-Master/Facility)	
Manager and Superintendent of)	
SCI-HUNTINGDON, Defendants.)	

MEMORANDUM ORDER

Denzel Johnson, Sr. (“Plaintiff”) is a state inmate currently incarcerated at the State Correctional Institution at Huntingdon (“SCI-Huntingdon”) in Huntingdon, Pennsylvania. Presently pending before the Court is the Report and Recommendation of Magistrate Judge Maureen P. Kelly dated October 18, 2021, in which she recommends, after consideration of the *Poulis* factors,¹ that this matter be dismissed without prejudice for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b). (ECF No. 10). No objections have been filed to the Report and Recommendation.

When no objections are made to the report and recommendation of a magistrate judge, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b); Advisory Committee Notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469

¹ *Poulis v. State Farm Fire and Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984).

(M.D. Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1).

Having conducted a *de novo* review of the Order, Fed. R. Civ. P. 72 (a), (b)(3), 28 U.S.C. Section 636 (b)(1), the court agrees with the sound reasoning that lead Judge Kelley to conclude that the *Poulis* factors weigh in favor of dismissal. Accordingly, the Court will adopt the Report and Recommendation that the putative complaint be dismissed pursuant to Rule 41(b) for failure to prosecute.

AND NOW, this 8th day of November, 2021, it is hereby ORDERED that the Report and Recommendation of Judge Kelly (ECF No. 10) be and the same is hereby ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED THAT Plaintiff's Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE for failure to prosecute and further, the certificate of appealability is hereby DENIED. The Clerk of Court is directed to mark this case as closed.

/s/ Robert J. Colville
Robert J. Colville
United States District Judge

Cc: Hon. Maureen P. Kelley

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